

the IRS revenue agent to testify because the testimony was first requested by taxpayer's counsel.

Example 7. A state assistant attorney general, acting in accordance with a recommendation from his state's department of revenue, is prosecuting a taxpayer under a state criminal law proscribing the intentional failure to file a state income tax return. The assistant attorney general serves an IRS employee with a subpoena to testify concerning the taxpayer's Federal income tax return filing history. This is a non-IRS matter. This is also a state judicial proceeding pertaining to tax administration within the meaning of section 6103(h)(4) and (b)(4). As such, the requirements of section 6103(h)(4) apply. A testimony authorization would be required for the testimony demand in the subpoena.

Example 8. A former IRS revenue agent is requested to testify in a divorce proceeding. The request seeks testimony explaining the meaning of entries appearing on one party's transcript of account, which is already in the possession of the parties. This is a non-IRS matter. No testimony authorization is required because the testimony requested from the former IRS employee involves general knowledge gained while the former IRS revenue agent was employed with the IRS.

Example 9. A Department of Justice attorney requests an IRS employee to testify in a refund suit involving Taxpayer A. The testimony may include tax convention information, as defined in section 6105, which was originally obtained by the IRS from a treaty partner in connection with a tax case against Taxpayer B. While no testimony authorization is necessary, because the testimony is being requested by government counsel in a tax matter, the IRS employee may not testify (or otherwise disclose IRS records or information) without coordinating with the U.S. Competent Authority, as disclosure of tax convention information is governed by section 6105. The disclosure must also meet the requirements in section 6103(h)(4).

Example 10. In a state court tort action, Defendant subpoenas IRS for Plaintiff's federal income tax returns for particular taxable years. This is a non-IRS matter. The Disclosure Officer instructs Defendant that the IRS has established procedures for obtaining copies of Federal income tax returns. Section 601.702(d)(1) of this chapter establishes the procedures for obtaining Federal tax returns by requiring written requests for copies of tax returns using IRS Form 4506, "Request for Copy of Tax Return." At Defendant's request, Plaintiff executes Form 4506, naming Defendant's counsel as designee, and the form is properly submitted to IRS. A testimony authorization would not be required

to disclose Plaintiff's returns to Defendant's counsel.

[T.D. 9178, 70 FR 7397, Feb. 14, 2005]

§ 301.9000-7 Effective date.

These regulations are applicable on February 14, 2005.

[T.D. 9178, 70 FR 7397, Feb. 14, 2005]

§ 301.9001 Statutory provisions; Outer Continental Shelf Lands Act Amendments of 1978.

Section 302 of the Outer Continental Shelf Lands Act Amendments of 1978 (92 Stat. 629) provides as follows:

Sec. 302. (a) There is hereby established in the Treasury of the United States an Off-shore Oil Pollution Compensation Fund in an amount not to exceed \$200,000,000, except that such limitation shall be increased to the extent necessary to permit any moneys recovered or collected which are referred to in subsection (b)(2) of this section to be paid into the Fund. The Fund shall be administered by the Secretary¹ and the Secretary of the Treasury as specified in this title. The Fund may sue and be sued in its own name.

(b) The Fund shall be composed of—

(1) All fees collected pursuant to subsection (d) of this section; and

(2) All other moneys recovered or collected on behalf of the Fund under section 308 or any other provision of this title.

(c) The Fund shall be immediately available for—

(1) Removal costs described in section 301(22);

(2) The processing and settlement claims under section 307 of this title (including the costs of assessing injury to, or destruction of, natural resources); and

(3) Subject to such amounts as are provided in appropriation Acts, all administrative and personnel costs of the Federal Government incident to the administration of this title, including, but not limited to, the claims settlement activities and adjudicatory and judicial proceedings, whether or not such costs are recoverable under section 308 of this title.

The Secretary is authorized to promulgate regulations designating the person or persons who may obligate available money in the Fund for such purposes.

(d)(1) The Secretary shall levy and the Secretary of the Treasury shall collect a fee of not to exceed 3 cents per barrel on oil obtained from the Outer Continental Shelf, which shall be imposed on the owner of the oil when such oil is produced.

¹ "Secretary" wherever used in this section means the Secretary of Transportation.

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(2) The Secretary of the Treasury, after consulting with the Secretary, may promulgate reasonable regulations relating to the collection of the fees authorized by paragraph (1) of this subsection and, from time to time, the modification thereof. Any modification shall become effective on the date specified in the regulation making such modification, but no earlier than the ninety-thirtieth day following the date such regulation is published in the FEDERAL REGISTER. Any modification of the fee shall be designed to insure that the Fund is maintained at a level of not less than \$100,000,000 and not more than \$200,000,000. No regulation that sets or modifies fees, whether or not in effect, may be stayed by any court pending completion of judicial review of such regulation.

(3)(A) Any person who fails to collect or pay any fee as required by any regulation promulgated under paragraph (2) of this subsection shall be liable for a civil penalty not to exceed \$10,000, to be assessed by the Secretary of the Treasury, in addition to the fee required to be collected or paid and the interest on such fee at the rate such fee would have earned if collected or paid when due and invested in special obligations of the United States in accordance with subsection (e)(2) of this section. Upon the failure of any person so liable to pay any penalty, fee, or interest upon demand, the Attorney General may, at the request of the Secretary of the Treasury, bring an action in the name of the Fund against that person for such amount.

(B) Any person who falsifies records or documents required to be maintained under any regulation promulgated under this subsection shall be subject to prosecution for a violation of section 1001 of title 18, United States Code.

(4) The Secretary of the Treasury may, by regulation, designate the reasonably necessary records and documents to be kept by persons from whom fees are to be collected pursuant to paragraph (1) of this subsection, and the Secretary of the Treasury and the Comptroller General of the United States shall have access to such records and documents for the purpose of audit and examination.

(e)(1) The Secretary shall determine the level of funding required for immediate access in order to meet potential obligations of the Fund.

(2) The Secretary of the Treasury may invest any excess in the Fund above the level determined under paragraph (1) of this subsection, in interest-bearing special obligations of the United States. Such special obligations may be redeemed at any time in accordance with the terms of the special issue and pursuant to regulations promulgated by the Secretary of the Treasury. The interest on, and the proceeds from the sale of, any obligations held in the Fund shall be deposited in and credited to the Fund.

(f) If at any time the moneys available in the Fund are insufficient to meet the obligations of the Fund, the Secretary shall issue to the Secretary of the Treasury notes or other obligations in the forms and denominations, bearing the interest rates and maturities, and subject to such terms and conditions as may be prescribed by the Secretary of the Treasury. Redemption of such notes or other obligations shall be made by the Secretary from moneys in the Fund. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the average market yield on outstanding marketable obligations of comparable maturity. The Secretary of the Treasury shall purchase any notes or other obligations issued under this subsection and, for that purpose, he is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act. The purpose for which securities may be issued under that Act are extended to include any purchase of such notes or other obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this subsection. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States.

(Sec. 302(d) of the Outer Continental Shelf Lands Act Amendments of 1978 (92 Stat. 672) and sec. 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805))

[T.D. 7697, 45 FR 33974, May 21, 1980]

§ 301.9001-1 Collection of fee.

(a) *Imposition of fee*—(1) *In general.* Under section 302(d) of the Outer Continental Shelf Lands Act Amendments of 1978 (Act), the Internal Revenue Service is authorized to collect a fee of not more than 3 cents per barrel on oil that is obtained from the Outer Continental Shelf. This fee is established by the Commandant, United States Coast Guard, and is imposed on the owner of the oil as defined in paragraph (a)(2) of this section. The barrels subject to the fee shall be those barrels reported by the owner of the oil (§ 301.9001-1 (a)(2)), or a person authorized to act for the owner, on the monthly royalty reports, Form 9-153, filed with the U.S. Geological Survey as required by 30 CFR 250.94. For the purpose of computing this fee, the owner of the oil shall measure the Outer Continental Shelf oil production by employing the criteria of the U.S.